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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,320	09/22/2003	Timothy D. Garst	GAR 0902US	2319
26092	7590	05/28/2004	EXAMINER	
KYLE W. ROST 5490 AUTUMN CT. GREENWOOD VILLAGE, CO 80111			WILSON, LEE D	
			ART UNIT	PAPER NUMBER
			3723	
DATE MAILED: 05/28/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/605,320

Applicant(s)

GARST, TIMOTHY D.

Examiner

LEE D WILSON

Art Unit

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1- is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 8-15, 19-20 is/are rejected.
- 7) ☒ Claim(s) 5-7 and 16-18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____.  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.   | 6) <input type="checkbox"/> Other: ____.                                    |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2, 4, 8, 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Shultz sr (4211446).

Shultz sr discloses a seal puller having a generally planar shank (30-32) with a hook facing side edge, a seal engaging hook (35) with a notch, an attachment (44-45), an elongated lever (11&12). There is a bend between the shank and hook.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shultz sr (4211446).

- a. Shultz sr is discussed above.
- b. Shultz discloses the claimed invention except for a metal material being used. It would be obvious to one having ordinary skill in the art at the time the

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invention was made to have known to use a metal material to form the device, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

5. Claims 1-4, 8-11, 14-15, and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perea (5245737) in view of Shultz sr (4211446).

c. Perea discloses a seal puller having a shank (13) with a hook (note this element contains an arm) facing side edge and a seal engaging hook (end of hook) with a notch, an attachment (21&29), an elongated lever (25&26), and a slide hammer (28).

d. Perea does not disclose a generally planar shank .

e. Shultz sr discloses a seal puller having a generally planar shank which is another form of a hook used to grab a workpiece.

f. It would be obvious to one having ordinary skill in the art at the time the invention was made to have modified the Perea device by providing a generally planar shank as taught by Shultz sr which is another form of a hook used to grab a workpiece.

g. In regard to claim 3, the modified Perea discloses the claimed invention except for the metal material. It would be obvious to one having ordinary skill in the art at the time the invention was made to have known to use a metal material to form the device, since it has been held to be within the general skill of a worker

in the art to select a known material on the basis of its suitability for intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

6. Claims 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perea (5245737) as applied to claims 1-4, 8-11 above, and further in view of Dimakos et al (4476861).

h. Perea is discussed above.

i. Perea does not disclose a fulcrum.

j. Dimakos discloses a puller having a fulcrum attached to a base which is alternative type of stop for the slide hammer.

k. It would be obvious to one having ordinary skill in the art at the time the invention was made to have modified the modified Perea device by replacing the stop with a stop that has a fulcrum as taught by Dimakos which is alternative type of stop for the slide hammer.

#### ***Allowable Subject Matter***

7. Claims 5-7 and 16-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hull et al and Qualkenbush disclose a device.

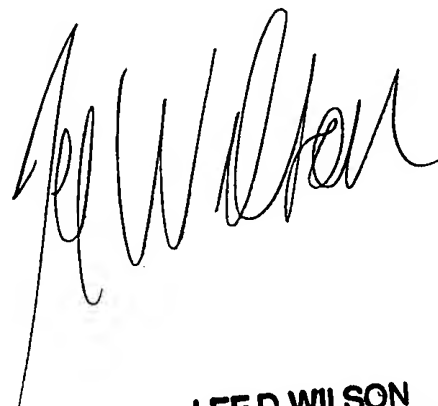
Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEE D WILSON whose telephone number is 703-305-4094. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOSEPH HAIL can be reached on 703-308-2687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ldw

May 26, 2004

A handwritten signature in black ink, appearing to read 'Lee D. Wilson', written in a cursive style.

**LEE D. WILSON  
PRIMARY EXAMINER**